

19 50.



File No. O Uhoti/50
Legal Dept

A BRANCH

Subject:—

Opium under Uhoti
lands

Handwritten signature/initials
The signature is written in a cursive, slanted style. It appears to be 'J. H.' or similar, with a horizontal line underneath the letters.

File No. O-Uhoti/50
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CONTENTS.

Legal Department File No. Q. Khoti/50.

Gr. No.	R. L. / Q. No.	Subject	Pages.
	Q. Khoti 1950.	Opinions under Khoti Land.	
1.	~~9742~~ ~~11-7-50~~	Section 6(2). Re. Appeal against the order of the Sarcubha under _____ of the Kulhapur Abolition of Khoti System Act, 1945.	1-3.
2.	~~12222~~ ~~8-11-50~~	Whether there is any legal objection how to recovering the appraisals of "gkhat pat Hissa measurement charges" from the Kakulayadar Khoti.	5. ⁶

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Office of the P.L.A.

Appeal against
the order of the
Sarsabha under
section 6(2) of
the Kolhapur
Abolition of
Khoti System
Act, 1945.

Section 6(1) of the Kolhapur Abolition of Khoti System Act, 1945, provides:

"The Prant Officer shall determine -

- (a) the amount of compensation payable to any person under the last preceding section,
- (b) the period for which such compensation shall be paid and
- (c) the rights of all persons to a share in any such compensation

and after hearing the parties concerned and in accordance with rules to be framed under section 8 of this Act."

Sub-section (2) provides that an appeal shall lie to the Sarsabha against any orders of the Prant Officer under this section and the decision of the Sarsabha on such appeal shall be final. Under sub-section (3) it shall not be within the power of any civil court to entertain an application arising out of any of the provisions of this Act or any action or decision taken in accordance with the provisions of this Act. It is clear from these provisions that the power to determine compensation vests in the Prant Officer and the decision of the Sarsabha in appeal against such order of the Prant Officer shall be final, and jurisdiction of the civil court is ousted. Consequently, unless the Prant Officer and the Sarsabha overstepped the limits of their jurisdiction, the Civil Court will have no power to question their decision. In the present case the Prant Officer decided that the compensations payable in respect of the share of Mutharebai in the Khoti village should be paid to the mortgagee Datto Krishna Dhavale and that order has in appeal been confirmed by the Sarsabha. Consequently the order of the Sarsabha is final and Government has no power to interfere with that order (see Kela Nayana Patil v. Secretary of State for India, 30 Bom. L.R. 1404). It is true that the order of the Prant Officer confirmed in appeal by the Sarsabha is opposed to the decision of the civil court inasmuch as the joint family of Datto Krishna Dhavale

and his two brothers, that is the present applicants, were considered as having a joint interest in the mortgage and as such the compensation under the Kolhapur Khoti Abolition Act was payable to all the three brothers and not to Datto Kristne Bhavale alone. But this point was considered by the Prant Officer and Sarsubha who came to the conclusion that the two brothers, that is the present payment applicants, should obtain an order of the civil court for payment of compensation. Apart from the propriety or otherwise of this order, it would be difficult to say that the Prant Officer and Sarsubha overstepped the limits of their jurisdiction, for their order may be wrong but it cannot be considered as void in the sense of its being without jurisdiction. (see section 6(1)(c) of the Kolhapur Abolition of the Khoti System Act). Consequently, it is difficult to say whether the civil court can have any jurisdiction to question the order of the Sarsubha which has now become final. However, that is a matter for the civil court to decide and at any rate Government has no power to ~~unlawfully~~ interfere with the order of the Sarsubha.

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Remembrancer of Legal Affairs.

U. R. to R. D., No. 9749; dated the 11th July, 1950.

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B. G. 56.
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Office of the R.L.A.

In view of section 4(1)(a) of the Bombay Khoti Abolition Act there would be no objection to recovering the Pot Hissa dues from the Khot or the tenant as the case may be in respect of the Khoti nishat lands.

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Remembrancer of Legal Affairs.

U.R. to R.D., No. 12858; dated the 2nd November, 1960.

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S. G. 55.

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